

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Escutia Analyst: LuAnna Hass Bill Number: SB 987

Related Bills: See Prior Analysis Telephone: 845-7478 Amended Date: June 11, 2002

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: State Agencies/Bilingual Services

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

☒ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced February 23, 2001.

☒ FURTHER AMENDMENTS NECESSARY.

☒ DEPARTMENT POSITION CHANGED TO Neutral.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 23, 2001, STILL APPLIES.

OTHER - See comments below.

SUMMARY

This bill would make various changes to current laws that address state agencies and bilingual services, such as:

- expanding the definition of "substantial number of non-English-speaking people," and
- requiring distributed written materials, including forms, applications, letters, and notices, to be in non-English languages, as appropriate.

SUMMARY OF AMENDMENT

The June 11, 2002, amendments resolved several, but not all, of the implementation concerns as discussed in the department's analysis of the bill as introduced February 23, 2001. Specifically, the amendments would remove the February 23, 2001, bill language regarding the expansion of the biannual survey and the implementation plan for a bilingual services program. The language was replaced with the language in this amendment, which would clarify the items to be surveyed and detail the requirements of an implementation plan.

Board Position:

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<input checked="" type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Legislative Director

Date

Brian Putler

7/11/02

The additional data to be collected for the biannual survey would include:

- The number of bilingual employees in public contact positions in each local office.
- A list of all written materials that are required to be translated or otherwise made available to non-English speaking individuals.
- A list of the materials above that have been translated and the languages into which they have been translated.
- The number of additional bilingual public contact staff needed at each local office.

Each state agency must develop an implementation plan in 2003, and in every subsequent even-numbered year. When the state agency develops its 2003 implementation plan, the agency may use the data collected during its 2002 biannual survey. The plan must be submitted to the State Personnel Board by March 31 of the applicable year. The implementation plan would address the following:

- The name, position, and contact information of the designated person that is responsible for overseeing the implementation plan.
- A description of the agency's procedures for:
 - identifying written materials that need to be translated,
 - identifying language needs at local offices and assigning qualified bilingual staff, and
 - accepting and resolving complaints of alleged violations of the bilingual services provisions.
- A description of:
 - how the agency recruits qualified bilingual staff,
 - any training the agency provides to its staff on providing services to non-English speaking individuals,
 - any deficiencies, as specified in the bill, and the proposed actions to resolve them, and
 - how the agency complies with any federal or other state laws regarding linguistic services for the public.

In addition, these amendments would:

- Clarify that subject to the provisions of the biannual survey and implementation plan, a state agency may implement the bilingual services act by filling public contact positions that are vacant due to retirement or normal reduction.
- Remove the criteria that at least 5% of the residents of a county where a local office of a state agency is located from the expanded definition of "substantial number of non-English-speaking people."
- Allow a state agency to petition SPB for a substitute alternative criteria based on the agency's eligible service population in place of the criteria that a substantial number of non-English-speaking people equals 10,000 or more of the residents of a county where the local office is located. Substitute criteria would only be allowed if the agency determines the above criteria would be impractical and SPB has approved the criteria substitution in writing.
- Remove the requirement that state agencies must re-evaluate the substantial number of non-English-speaking people every two years.
- Redefine "public contact position" as a position that emphasizes the ability to contact and deal with the public in the performance of the agency's functions.

- Remove the February 23, 2001, bill language that would have:
 - required state agencies to establish, coordinate, and monitor a departmental plan to provide services to non-English speaking people, and
 - eliminated consideration of the ability of state agencies to implement the bilingual services act to the extent federal, state, or local funds are available.Instead, this bill would add the requirement that state agencies implement the bilingual services act to the extent federal, state, or local funds are available except as required by federal or other applicable state laws.
- Add interpreters as an option when state agencies contract for telephone interpretation services.
- Remove the provision that would have allowed an individual or organization acting on behalf of an aggrieved party to file a written complaint with the state agency.
- Remove the requirement that SPB may order implementation plan corrections to be completed by a state agency within 120 days
- Clarify that SPB:
 - has the authority to hold hearings and conduct investigations upon its own motion, and
 - must complete its investigations and provide conclusions with 120 days after receiving a petition from an individual or nongovernmental organization.

As a result of the amendments, the department has identified an additional implementation consideration. All new and existing concerns are provided below. In addition, the department has updated its position, the fiscal impact, and the effective and operative date of this bill. The remainder of the department's analysis of the bill as introduced February 23, 2001, still applies.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative January 1, 2003.

POSITION

Neutral.

On June 27, 2001, the Franchise Tax Board voted 2-0 to take a neutral position on this bill, as introduced February 23, 2001.

ANALYSIS

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would significantly impact the department's programs and operations by requiring state agencies, including the department, to provide written materials, including forms, applications, letters, and notices, in non-English languages. The department currently maintains approximately 2,500 publications and 250 tax forms that would need to be translated under this bill for each non-English speaking population that meets the specifications in this bill. The department would need to employ translators to handle the development, translation, review, and editing of the materials, as well as translators to handle any related telephone calls or correspondence that may be generated by the translated bilingual materials.

In the instance that a qualified translator is not available for a specific non-English language, this bill could be interpreted to require the department to either:

- train a current employee to speak the non-English language, or
- hire an individual that speaks the non-English language and subsequently train them on tax programs and policies.

This bill would redefine “public contact position” by eliminating the phrase “as determined by the agency.” Removing this language leaves the definition unclear about who is responsible for determining which positions have the “ability to meet, contact, and deal with the public in the performance of the agency’s functions.”

FISCAL IMPACT

The preliminary costs to implement this provision have been estimated to be at least \$1.6 million for the staffing, equipment, and translation of the necessary documents into 11 languages (see note). This analysis uses existing department salary data, although the department does not have existing staff trained to do the necessary translation. It would be necessary for the department to recruit the assistance of independent contractors, the salaries of which are unknown.

The preliminary costs include translation, typesetting, editing, and reviewing of forms and documents. This cost assumes that the tax forms would be in a format that is consistent with existing English tax forms, which would require the taxpayer to use Arabic/English numerals when completing the form. If the intent of this bill were to allow non-English speaking individuals to complete forms and documents using their native language, the costs associated with this bill would increase significantly due to programming changes to existing department systems. In addition, this preliminary cost only takes into consideration the costs to supply, receive, and process translated documents and forms and does not include the costs for other branches of the department to handle the documents. For example, depending on an individual taxpayer's situation, the department may need auditors, attorneys, and collectors to read and understand the taxpayer's completed form.

Note: Based on information taken from the Language Study prepared by the Judicial Council of California, departmental telephone statistics, Census 2000, and the Immigration and Naturalization Service, the department estimates at least seven languages would be required for translation under this bill with the possibility of at least four additional languages.

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